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IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF CALIFORNIA
[DIVISION TO BE ASSIGNED]

COMPUTER SCIENCES
CORPORATION, a Nevada Corporation,
Plaintiff,
v.
ALAN RAZAVI, an individual, VAHID
RAZAVI, an individual, BIZCLOUD,
INC., a Wyoming Corporation,
ZIPBUSINESS, a California Corporation,
and DOES 1 – 10.
Defendants.

Civil Action No. _____

COMPLAINT FOR: (1)
DECLARATORY JUDGMENT OF
TRADEMARK
NONINFRINGEMENT; (2)
DECLARATORY JUDGMENT THAT
ALLEGED MARK IS MERELY
DESCRIPTIVE AS TO
DEFENDANT'S SERVICES AND
LACKS SECONDARY MEANING;
AND (3) CANCELLATION
OF FEDERAL TRADEMARK
REGISTRATION

JURY DEMAND

Plaintiff Computer Sciences Corporation ("Plaintiff CSC"), for its
Complaint herein, alleges as follows:

NATURE OF ACTION

1. This is an action for declaratory judgment arising under the Federal
Declaratory Judgments Act (28 U.S.C. §§ 2201 and 2202) and for cancellation of
a federal trademark registration under the federal Trademark Act (the "Lanham

1 Act”) (15 U.S.C. §§ 1051 *et seq.*). Plaintiff CSC seeks all appropriate equitable
2 and legal relief, including but not limited to injunctive and monetary relief.

3 **THE PARTIES**

4 2. Plaintiff CSC is a Nevada corporation with its principal place of
5 business in Falls Church, Virginia.

6 3. Plaintiff CSC is informed and believes, and on that basis alleges, that
7 Defendant BizCloud, Inc. (“Defendant BCI”) is a Wyoming corporation whose
8 status in Wyoming has been “Inactive – Administratively Dissolved” since on or
9 about August 29, 2013 and continuing to the present time. Plaintiff CSC is
10 informed and believes, and on that basis alleges, that Defendant BCI’s principal
11 place of business is or was in California and that it has solicited and conducted
12 business over the Internet and in this judicial district, and has engaged in the acts
13 alleged in this Complaint in this judicial district.

14 4. Plaintiff CSC is informed and believes, and on that basis alleges, that
15 Defendant ZipBusiness (“Defendant ZB”) is a California corporation with a
16 principal place of business in California and in this judicial district and has
17 solicited and conducted business in this judicial district, and has engaged in the
18 acts alleged in this Complaint in this judicial district.

19 5. Plaintiff CSC is informed and believes, and on that basis alleges, that
20 Defendants Alan Razavi and Vahid Razavi are, were or have been at all or
21 various relevant times the chief executive officer of Defendant BCI, are
22 individuals who are citizens of California and reside in this judicial district, and at
23 all material times relevant herein were acting as the alter egos of Defendant BCI
24 and Defendant ZB, directed their actions and are responsible for their
25 wrongdoings as alleged herein.

26 6. Plaintiff CSC is ignorant of the true names and capacities of
27 defendants sued as Does 1 through 10, inclusive and therefore sues these
28

1 defendants by such fictitious names. Plaintiff CSC will amend this Complaint to
2 allege their names and capacities when they have been ascertained.

3 7. On information and belief, each of the fictitiously named defendants
4 is at all relevant times responsible in some manner for the occurrences alleged in
5 this Complaint. Their alleged acts and/or omissions are a direct and proximate
6 cause of Plaintiff CSC's injuries.

7 8. Plaintiff CSC is informed and believes, and on that basis alleges, that
8 all Defendants, including the fictitious Doe defendants, were at all relevant times
9 acting as actual agents, conspirators, ostensible agents, partners and/or joint
10 ventures and employees of all other defendants, and all acts alleged herein
11 occurred within the course and scope of said agency, employment, partnership,
12 joint venture, conspiracy and/or enterprise, and with the express and/or implied
13 permission, knowledge, consent, authorization, and ratification of their co-
14 defendants.

15 **FACTUAL ALLEGATIONS**

16 9. Plaintiff CSC is a global leader in providing technology-enabled
17 solutions and services for large businesses. Plaintiff CSC has approximately
18 81,000 professionals that serve clients in more than 70 countries.

19 10. Many different companies provide cloud computing services and
20 technology. A search on Google.com for "cloud computing" results in hundreds
21 of millions of results. A search on Google.com for the word "cloud" by itself
22 results in hundreds of millions of results, many of which involve computing
23 services.

24 11. Plaintiff CSC has used "CSC BizCloud" and "BizCloud" in
25 connection with cloud computing services offered to large companies. The
26 BizCloud service that is offered by Plaintiff CSC includes a secure, client-
27 exclusive enterprise private cloud. The CSC BizCloud service provides a cloud
28 solution when a client has regulatory, compliance or latency concerns and

1 provides clients a solution for workloads that require additional security and
2 when data and applications need to be kept close to the enterprise. CSC's
3 BizCloud service features elasticity, as it allows clients to expand and reduce
4 private cloud computing resources according to their business needs. Plaintiff
5 CSC markets and sells the CSC BizCloud technology and services to large
6 companies along with other partners that provide their own complementary
7 offerings.

8 12. Plaintiff CSC is informed and believes, and on that basis alleges, that
9 Defendant BCI or Defendant ZB (or both) offers and provides advertising,
10 promotion, marketing and business consulting services to small businesses from a
11 cloud. Defendant BCI or Defendant ZB (or both) has described itself in
12 advertising and promotion to prospective clients as "the small business cloud
13 computing company." Use of BIZCLOUD by Defendant BCI or Defendant ZB
14 (or both) is merely descriptive of its business as "the small business cloud
15 computing company" and the cloud computing services it allegedly provides to
16 other businesses.

17 13. Defendant BCI and Defendant ZB have not developed secondary
18 meaning in BIZCLOUD. Their use of BIZCLOUD is not associated with
19 services and technology provided by Defendant BCI and Defendant ZB.

20 14. Plaintiff CSC is informed and believes, and on that basis alleges, that
21 Defendant ZB obtained U.S. Trademark Registration No. 3910486 for
22 BIZCLOUD in Class 35 for "Advertising and advertisement, promotion and
23 marketing services on behalf of others; online promotion of business
24 opportunities and business networking services; providing telephone directory
25 information via the Internet; providing business information in the nature of
26 providing information on business opportunities and information and reports on
27 existing business entities; business consulting; providing an online interactive
28 website obtaining users comments concerning business services; providing an

1 interactive website featuring business advice and business information in the form
2 of video interviews.” Defendant ZB alleged that the date of first use was
3 December 1, 2008. The date of the registration obtained by Defendant ZB is
4 January 25, 2011.

5 15. In early February of 2011, Plaintiff CSC received a letter purportedly
6 from Defendant Alan Razavi, dated February 3, 2011, claiming alleged trademark
7 rights in BIZCLOUD and demanding that Plaintiff CSC cease and desist using
8 “BizCloud.”

9 16. Plaintiff CSC disputed Defendants’ claim of infringement and
10 informed Defendant Alan Razavi of its position. On or about February 18, 2011,
11 Plaintiff CSC sent a letter to Defendant Alan Razavi and Defendant ZB,
12 explaining why Plaintiff CSC’s use of “BizCloud” was and is proper, and does
13 not infringe Defendant’s alleged trademark.

14 17. On or about March 15, 2011, Defendant Alan Razavi signed a letter
15 addressed to Plaintiff CSC, threatening Plaintiff CSC with “negative
16 consequences” and emphasizing that damages were accruing in his favor.

17 18. Plaintiff CSC is informed and believes, and on that basis alleges, that
18 Defendant ZB purported to assign its rights in and to U.S. Trademark Registration
19 No. 3910486 for BIZCLOUD in Class 35 to Defendant BCI on November 12,
20 2013. At that time, Defendant BCI was administratively dissolved by the state of
21 Wyoming and therefore, pursuant to the Wyoming Business Corporation Act,
22 Wy. Stat. 17-16-1421(c), was not permitted to accept assignment of U.S.
23 Trademark Registration No. 3910486.

24 19. Plaintiff CSC is informed and believes, and on that basis alleges that,
25 on or about December 5, 2013 when Defendant BCI was dissolved, at the
26 direction of Defendant Alan Razavi, Defendant Vahid Razavi and/or Defendant
27 BCI, legal counsel for Defendants sent a letter to Plaintiff CSC and to four of
28 Plaintiff CSC’s partners who market and sell offerings that complement CSC’s

1 BizCloud services and technology. The December 5, 2013 letter demanded that
 2 Plaintiff CSC and those partners of Plaintiff CSC cease and desist using
 3 “BizCloud.” The December 5, 2013 letter further alleged that Plaintiff CSC and
 4 those partners infringe Defendant BCI’s alleged BIZCLOUD trademark, that
 5 Defendant BCI is entitled to recover money for the alleged infringement and that
 6 Defendant BCI will file a lawsuit against Plaintiff CSC and those partners if they,
 7 including Plaintiff CSC, do not pay “a reasonable settlement to BizCloud for
 8 approximately three full years of use of BizCloud’s registered mark in the cloud
 9 computing space.” The letter enclosed a draft complaint against Plaintiff CSC
 10 and its partners and states that Defendant BCI will “file the attached complaint to
 11 recover profits” of Plaintiff CSC and those partners.

12 **JURISDICTION AND VENUE**

13 20. This action arises under the Federal Declaratory Judgments Act, 28
 14 U.S.C. §§ 2201 and 2202 *et seq.*, the Lanham Act, 15 U.S.C. §§ 1052, 1064 and
 15 1119 and the common law.

16 21. The Court has subject matter jurisdiction pursuant to 28 U.S.C. §
 17 2201, 15 U.S.C. § 1119, and 28 U.S.C. §§ 1331, 1338 and 1367.

18 22. Venue in this judicial district is proper under 28 U.S.C. §§ 1391(b) or
 19 (c) in that, on information and belief, Defendants reside in this judicial district,
 20 have done business in this district and/or a substantial part of the events giving
 21 rise to Plaintiff’s claims occurred in or were aimed at this judicial district.

22 23. Plaintiff CSC is informed and believes, and on that basis alleges, that
 23 Defendants BCI, ZB, Alan Razavi and Vahid Razavi are subject to the personal
 24 jurisdiction of this Court and are amenable to service of process.

25 **INTRADISTRICT ASSIGNMENT**

26 24. Because this action is an Intellectual Property Action as specified in
 27 Civil L.R. 3-2(c), it is to be assigned on a district-wide basis.

FIRST CLAIM FOR RELIEF
DECLARATORY JUDGMENT OF TRADEMARK NONINFRINGEMENT
UNDER 28 U.S.C. §§ 2201 AND 2202 *et seq.*
AGAINST ALL DEFENDANTS

25. Plaintiff CSC repeats and realleges each of the allegations contained in paragraph numbers 1 through 24 of this Complaint, as if fully set forth herein.

26. A dispute has now arisen between the parties, and an actual and justiciable controversy exists, in that Defendant BCI asserts, and Plaintiff CSC denies, that Plaintiff CSC's use of "BizCloud" infringes alleged trademark rights of Defendant BCI or Defendant ZB.

27. Plaintiff CSC requests a declaration and judicial determination by this Court that Plaintiff CSC's use of "BizCloud" does not infringe any alleged trademark right of Defendants.

28. Plaintiff CSC has no other existing, speedy, adequate or proper remedy other than a declaration and determination of the parties' rights as prayed for herein.

SECOND CLAIM FOR RELIEF
DECLARATORY JUDGMENT THAT THE ALLEGED MARK IS
MERELY DESCRIPTIVE AS TO DEFENDANTS' SERVICES AND
LACKS SECONDARY MEANING
UNDER 28 U.S.C. §§ 2201 AND 2202 *et seq.*
AGAINST ALL DEFENDANTS

29. Plaintiff CSC repeats and realleges each of the allegations contained in paragraph numbers 1 through 28 of this Complaint, as if fully set forth herein.

30. A dispute has now arisen between the parties, and an actual and justiciable controversy exists, in that Defendant BCI asserts, and Plaintiff CSC denies, that Defendant BCI has alleged trademark rights in BIZCLOUD.

31. Plaintiff CSC requests a declaration and judicial determination by this Court that the alleged mark BIZCLOUD as used by Defendant BCI or Defendant ZB is merely descriptive of Defendant BCI or Defendant ZB's business and its offerings of cloud computing services for businesses.

1 32. Plaintiff CSC further requests a declaration and judicial
 2 determination by this Court that Defendant BCI and Defendant ZB have not
 3 developed secondary meaning in BIZCLOUD and that Defendant BCI and
 4 Defendant ZB's use of BIZCLOUD is not associated with offerings provided by
 5 Defendants.

6 **THIRD CLAIM FOR RELIEF**
 7 **CANCELLATION OF FEDERAL TRADEMARK**
 8 **REGISTRATION UNDER 15 U.S.C. § 1064**
 9 **AGAINST ALL DEFENDANTS**

10 33. Plaintiff CSC repeats and realleges each of the allegations contained
 11 in paragraph numbers 1 through 32 of this Complaint, as if fully set forth herein.

12 34. Defendant ZB's purported assignment of U.S. Trademark
 13 Registration No. 3910486 to Defendant BCI was without effect, null and void
 14 because Defendant BCI's corporate status was dissolved at the time of the
 15 purported assignment.

16 35. The alleged mark BIZCLOUD as used by Defendant BCI and
 17 Defendant ZB is merely descriptive of Defendant BCI and Defendant ZB's
 18 businesses and their offerings of cloud computing services.

19 36. Defendant BCI and Defendant ZB have not developed secondary
 20 meaning in BIZCLOUD. Their use of BIZCLOUD is not associated with
 21 offerings provided by Defendant BCI and Defendant ZB.

22 37. U.S. Trademark Registration No. 3910486, whether held by
 23 Defendant ZB or Defendant BCI is invalid and unenforceable, and should be
 24 cancelled because the significance of the alleged mark to the consuming public is
 25 merely descriptive with respect to the services of Defendant BCI and Defendant
 26 ZB and Defendant BCI and Defendant ZB have not established and cannot
 27 establish secondary meaning.
 28

PRAYER FOR RELIEF

WHEREFORE, Plaintiff CSC respectfully demands judgment as follows:

38. A declaratory judgment that Plaintiff CSC's use of "BizCloud" does not infringe any alleged trademark right of Defendants;

39. A declaratory judgment that BIZCLOUD as used by Defendant BCI and Defendant ZB is merely descriptive and lacks secondary meaning and that, as a result, Defendant BCI and Defendant ZB have no trademark rights in BIZCLOUD;

40. An order to the U.S. Patent and Trademark Office cancelling U.S. Trademark Registration No. 3910486 for the alleged mark BIZCLOUD;

41. That the present case be found exceptional and that attorneys' fees be awarded to Plaintiff CSC under the Lanham Act or as otherwise provided by law;

42. For an order requiring Defendants, and each of them, to show cause, if any they have, why they should not be enjoined as set forth below, during the pendency of this action;

43. For equitable relief enjoining Defendants from contacting Plaintiff CSC's business partners to accuse them of trademark infringement relating to use of "BizCloud";

44. That Defendants be ordered to pay to Plaintiff CSC pre-judgment and post-judgment interest on all sums allowed by law;

45. That Defendants be ordered to pay to Plaintiff CSC its costs incurred in this action;

46. That Plaintiff CSC has such other and further relief as this Court may deem just and proper.

DEMAND FOR JURY TRIAL

Plaintiff CSC demands a trial by jury as to all issues so triable.

1 Dated this 30th day of December, 2013.

2
3 Respectfully submitted,

4 SHEPPARD. MULLIN. RICHTER & HAMPTON LLP

5 Bv:

/s/

6 JAMES W. SOONG
LAURA L. CHAPMAN

7 LAI L. YIP

Attorneys for Plaintiff

8 COMPUTER SCIENCES CORPORATION
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